

Appl. No. 09/651,344  
Filed: Aug. 29, 2000

Page 14 of 17

### REMARKS

Applicants respectfully request reconsideration of this application, as amended, and consideration of the following remarks.

#### Amendments

##### Amendments to the Specification

Applicants have amended the specification to correct a typographical error whereby “first end 76 of suture 34” was incorrectly identified as “*second* end 76.” Also, the term “short suture 74” was changed to “connecting filament 74” for consistency. No new matter has been added.

##### Amendments to the Claims

Applicants have amended the claims and added new claims to more particularly point out what Applicants regard as the invention. No new matter has been added as a result of these amendments.

Claim 26 was amended to correct errors in antecedent basis and not in response to the rejection of the Office Action. Claim 64 was amended to remove the multiple dependency and not in response to the rejection of the Office Action. Claims 69 and 72 were amended to more particularly point out what Applicants regard as the invention. Claim 74 was amended to be consistent with claim 72 on which it indirectly depends.

#### Rejections under 35 U.S.C. § 102(b)

##### Klein et al. (5,527,322) - Claims 26, 48, 49, 64, and 65

Applicants respectfully submit that Klein ‘322 does not disclose each and every element of the invention as claimed in claims 26, 48, 49, 64, and 65.

Klein ‘322 discloses devices and methods for suturing tissue penetrations and puncture sites.

With regard to independent claim 26, Klein ‘322 does not disclose each and every element of the claim including “withdrawing the first end of the suture from the vessel, through the vessel wall and through a bight of the suture to form a loop of suture across the puncture.” Instead, Klein ‘322 discloses that “the suture may then be tied off to close the puncture in a conventional manner.” (Klein ‘322, col. 2, lines 63-64.)

Appl. No. 09/651,344  
Filed: Aug. 29, 2000

Page 15 of 17

With regard to independent claim 48, Klein '322 does not disclose each and every element of the claim including "causing the device to form a loose knot formation between the opposed portions of the at least one suture element after the suture element has been placed." Instead, Klein '322 discloses that "the suture may then be tied off to close the puncture in a conventional manner." (Klein '322, col. 2, lines 63-64.)

Dependent claims 49, 64, and 65 depend, directly or indirectly on claim 48, and therefore include all the limitations of claim 48, as well as additional limitations. For the same reasons discussed above with respect to claim 48, Applicants submit that claims 49, 64, and 65 are not anticipated by Klein '322.

Accordingly, Applicants submit that the invention claimed in claims 26, 48, 49, 64, and 65 is not anticipated by Klein '322 under 35 U.S.C. § 102(b) and respectfully request the withdrawal of the rejection.

Klein et al. (5,417,699) - Claims 69, 70, 72, and 73

Applicants respectfully submit that Klein '699 does not disclose each and every element of the invention as claimed in claims 69, 70, 72, and 73.

Klein '699 discloses devices and methods for suturing percutaneous luminal puncture sites. After the suture is passed through the needle penetrations made in the blood vessel, the free ends of the suture may be secured together, e.g., by tying to form a knot. (Klein '699, col. 8, lines 23-32.)

With regard to independent claim 69, Applicants have amended claim 69 to recite that the "suture element defines a knot between opposed portions thereof after the suture element has been passed through the vessel wall." In light of the amendment to claim 69, it is respectfully submitted that Klein '699 does not disclose each and every element of the invention as claimed in claim 69.

Dependent claim 70 depends on claim 69, and therefore includes all the limitations of claim 69, as well as additional limitations. For the same reasons discussed above with respect to claim 69, Applicants submit that claim 70 is not anticipated by Klein '699.

With regard to independent claim 72, Applicants have amended claim 72 to recite that "the needle [is] operatively associated with the suture element and arranged to pass the suture element through the vessel wall and through a bight of the suture element such that opposed portions of the

Appl. No. 09/651,344  
Filed: Aug. 29, 2000

Page 16 of 17

suture element extend from the vessel wall and the suture element defines a knot between opposed portions thereof after the suture element has been passed through the bight."

In light of the amendment to claim 72, it is respectfully submitted that Klein '699 does not disclose each and every element of the invention as claimed in claim 72.

Dependent claim 73 depends on claim 72, and therefore includes all the limitations of claim 72, as well as additional limitations. For the same reasons discussed above with respect to claim 69, Applicants submit that claim 70 is not anticipated by Klein '699.

Accordingly, Applicants submit that the invention claimed in claims 69, 70, 72, and 73 is not anticipated by Klein '699 under 35 U.S.C. § 102(b) and respectfully request the withdrawal of the rejection.

#### **Allowable Subject Matter**

Applicants thank the Examiner for indicating that claims 27, 50-63, 66-68, 71, and 74-84 contain allowable subject matter if rewritten to include all the limitations of the claims from which they each originally depended. Applicants respectfully traverse the requirement to amend the claims in view of the arguments discussed above with respect to the independent claims on which the objected-to claims depend. Applicants reserve the right to make such amendments after the Examiner's consideration of the arguments above.

#### **Comments on Statement of Reasons for the Indication of Allowable Subject Matter**

Applicants submit that each allowed claim is allowable over prior art of record because each and every element set forth in each of the allowed claims is not found in the prior art of record, and the claimed invention as a whole is not obvious over the prior art of record.

#### **SUMMARY**

In this response, claims 26, 64, 69, 72, and 74 have been amended, and new claims 85-93 have been added. Claim 79 has been canceled. Therefore, claims 26-27, 48-78, and 80-93 are currently pending. In view of the foregoing amendments and remarks, Applicants respectfully submit that the pending claims are in condition for allowance. Applicants respectfully request reconsideration of the application and allowance of the pending claims.

Appl. No. 09/651,344  
Filed: Aug. 29, 2000

Page 17 of 17

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Joseph A. Twarowski at (650) 474-3326.

**Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 01-0025 for any charges that may be due or credit our account for any overpayment. Furthermore, if an extension is required, then Applicants hereby request such extension.

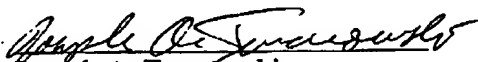


ABBOTT LABORATORIES  
Telephone: (847) 938-5386  
Facsimile: (847) 938-2623

Direct Telephone Inquiries to:

Joseph A. Twarowski  
Registration No. 42,191  
Attorney for Applicants  
(650) 474-3326

Respectfully submitted,  
D. B. Modesitt, et al.

  
Joseph A. Twarowski  
Registration No. 42,191  
Attorney for Applicants

**OFFICIAL**

**FAX RECEIVED**  
**AUG 28 2003**  
**GROUP 3700**